

BEFORE THE STATE BOARD OF MEDIATION

Jefferson City, Missouri
August 16, 1971

The School District of Kansas City, Missouri

and

Service School Employees Union, Local 12

PUBLIC CASE NO. 48

JURISDICTIONAL STATEMENT

Missouri's Public Employees Labor Relations Act, cited as Sections 105.500-105.530, inclusive, Revised Statutes of Missouri, became effective October 13, 1967. Section 105.525 of said act provides, in part, as follows that:

"Issues with respect to appropriateness of bargaining units and majority representative status shall be resolved by the State Board of Mediation."

INTRODUCTORY STATEMENT

Under date of June 1, 1971, Local 12 filed with this Board its "Petition for Certification", pursuant to Sections 105.500-105.530 aforesaid, stating that Local 12 consisted of approximately six hundred (600) operating, maintenance, and custodial employees of said School District. The prayer of the petition requested the State Board of Mediation to find and certify said Local 12 to be the exclusive bargaining representative of employees above named.

After contacts with the parties, directly, and through their respective attorneys, by correspondence and telephone communications, the matter was finally set for hearing at

the Board of Education Building of the School District of Kansas City, Missouri, 12th and McGee Streets, 10:00 A.M., Friday, August 6, 1971.

APPEARANCES FOR THE BOARD

The State Board of Mediation was represented by its full membership of five members consisting of Daniel C. Rogers, Chairman and Public Member, Truman Henry and Don Allard, Employer Members, and, Charles R. Bibbs and Jack F. Moore, Employee Members.

APPEARANCES FOR THE PARTIES

For Local 12, the petitioner:

William A. Jolley, Attorney at Law,
Michael D. Gordon, Attorney at Law,
William L. Greer, President, Local 12.

For the School District of Kansas City, Missouri:

William C. Nulton, Attorney at Law,
James Newell, Assistant Superintendent,
Howard Bougher, Director, and
Don Allee, Director of Maintenance.

REVIEW OF PROCEEDINGS

After opening statements by Messrs. Jolley and Nulton, including procedural discussions with Chairman Rogers and other members of the State Board of Mediation, evidence to support the petition, aforesaid, and to the effect its purposes, pursuant to Section 105.525, was presented in the form of exhibits, joint and several, oral testimony, and cross examination, in an all day hearing, ending at 7:00 P.M. Friday, August 6, 1971.

In consideration of the evidence adduced and the arguments of counsel, comes now the State Board of Mediation to make and enter its FINDINGS and ORDERS, as follows:

FINDINGS

(a) and (b)

Finding (a) Appropriate Bargaining Unit: The State Board of Mediation finds that certain operating, custodial, maintenance and warehouse employees of the School District of Kansas City (Missouri), (six hundred, more or less) as specified in the following job classifications, whether in a regular or probationary employment status, constitute an appropriate bargaining unit, as defined in Section 105.500 RSMo, to-wit:

- Custodian-Fireman--Elementary School
 - Class 1
 - Class 2
 - Class 3
 - Class 4
- Relief Custodian
- Operating Clerk
- Fireman
- Assistant Custodian
- Guard
- Janitress
- Senior Janitress
- Matron
- Elevator Operator
- Parking Lot Attendant
- Assistant Custodian Helper
- Audio-Visual Technician, Electrician
- Audio-Visual Technician, Electrician Foreman
- Bricklayer
- Carpenter
- Carpenter Shop Foreman
- Electrician
- Floor Layer
- Furniture
- Furniture Foreman
- Glazier
- Glazier Foreman

Grounds Foreman
Heavy Equipment Operator
Helper
Laborer
Labor Foreman
Landscaper
Landscaper and Truck Driver
Machinist
Masonry Foreman
Millwright
Office Machine Mechanic
Painter
Painter Job Foreman
Plasterer
Plumber
Plumber, Master
Plumber Apprentice 90%
Roofer
Sewers
Sheetmetal
Steamfitter
Truck Driver
Truck Driver Foreman
Warehouseman
Stockman
Lead Warehouseman
Draftsman.

A.

EMPLOYEES EXCLUDED FROM THE APPROPRIATE BARGAINING UNIT

The Board further finds that employees in job classifications, as listed below, do not fall within the appropriate bargaining unit described above in Finding (a), for the reason that we find them to be managerial, supervisory, confidential or security employees, who do not have a clear and identifiable community of interest with the employees within Finding (a). Accordingly, we exclude employees in the following job classifications from the appropriate bargaining unit, to-wit:

Assistant Superintendent, Buildings and Grounds
Chief, Plant Operation
Chief, Plant Maintenance
Chief, Engineering Services
Operating Department Manager
Assistant to Chief, Plant Maintenance

Building Inspector
Secretary-A
Clerk-Stenographer B
Stenographer A
Clerk Typist
Bookkeeping Machine Operator
General Clerk
Building Manager (Administration & Libraries)
Assistant Building Manager (Administration & Libraries)
Building Manager-High School
Custodian Trainer
General Foreman
Security Department Manager
Security Specialist
School Security Officer (Hourly)
School Security Attendants (Hourly)

NEW JOB CLASSIFICATIONS SUBJECT TO BOARD REVIEW

The Board finds that new job classifications hereafter created shall be subject to review by the Board as to inclusion in or exclusion from the appropriate bargaining unit, pursuant to Chapter 105 RSMo or other applicable law.

Finding (b) Majority Representative Status: The Board now finds that the joint and several exhibits, together with the testimony of witnesses, tends to prove that the School District of Kansas City (Missouri) and Local 12 of Service School Employees Union, (consisting of approximately 600 employees, more or less, as specified, described, or designated, in Finding (a)), have consistently met and conferred concerning wages and other conditions of employment over a period of time in excess of fifteen years prior to date of filing the aforesaid "Petition for Certification". During such period of time, with varying degree of regularity and completeness, employees have authorized in writing, and the School District of Kansas City (Missouri) has accepted and administered, a dues check-off or union security program. Recently, the dues check-off program has included in excess of a majority and at times as high as

approximately 65% of the employees included in the aforesaid appropriate bargaining unit, described in Finding (a). Moreover, although the School District of Kansas City (Missouri) has requested and would prefer that the State Board of Mediation conduct an election by secret ballot to determine the issue of "majority representative status", it is obvious upon critical consideration of Section 105.525, that the State Board of Mediation is not legally bound to conduct an election by secret ballot, exclusively, to determine the issue of "majority representative status", pursuant to Section 105.525.

Finally, the State Board of Mediation is convinced that the probative evidence, of record, as a whole, supports, and does in fact legally prove and establish majority representation, pursuant to Section 105.525 RSMo, and the Board so finds.

ORDERS

It is Therefore Ordered:

(a) Appropriate Bargaining Unit. That the employees of the School District of Kansas City (Missouri), who are specified, designated or described by job classifications, or otherwise, to be within the appropriate bargaining unit, as determined by Finding (a) of this proceeding, be, and they are hereby, certified to be, an appropriate bargaining unit, pursuant to Sections 105.500 and 105.525 RSMo.

(b) Exclusive Bargaining Representative. That petitioner Service School Employees Union, Local 12, having been designated or selected by a majority of the employees in the appropriate bargaining unit, as described in Finding (a) of this proceeding, is hereby certified as exclusive bargaining representative of the employees in said appropriate unit.

EFFECTIVE DATE OF ORDERS

ORDER (a) Appropriate Bargaining Unit, and,

ORDER (b) Exclusive Bargaining Representative

Both Effective August 16th, 1971.

MISSOURI STATE BOARD OF MEDIATION

(Seal)

/s/ Daniel C. Rogers
Daniel C. Rogers
Chairman and Public Member

/s/ Truman Henry
Truman Henry, Employer Member

/s/ Don Allard
Don Allard, Employer Member

/s/ Charles R. Bibbs
Charles R. Bibbs, Employee Member

/s/ Jack F. Moore
Jack F. Moore, Employee Member